

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

GEORGE A VANDOLAH
Claimant

APPEAL NO. 08A-UI-05042-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEXTER FOUNDRY INC
Employer

**OC: 02/24/08 R: 03
Claimant: Appellant (2)**

871 IAC 24.2(1)(e) – Failure to Report as Directed

STATEMENT OF THE CASE:

George Vandolah filed a timely appeal from the May 19, 2008, reference 02, decision that denied benefits effective February 24, 2008 based on an Agency representative's conclusion that he had failed to report as directed. After due notice was issued, a hearing was held on June 10, 2006. Mr. Vandolah participated. Kathy Baker, Human Resources Administrative Assistant, represented the employer. The administrative law judge took official notice of the reference 01 through reference 07 decisions and supporting documentation contained in the Agency's administrative file. The administrative law judge took official notice of the administrative law judge decision entered on April 10, 2008 in Appeal Number 08A-UI-02947-S2T. The administrative law judge took official notice of the June 5, 2008 inter-office communication from the Unemployment Insurance Service Center (UISC) to Unemployment Insurance Appeals Administrative Assistant Mary Piagentini.

ISSUE:

Whether the claimant failed to report to Iowa Workforce Development as directed by the Agency.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: George Vandolah established a claim for unemployment insurance benefits that was effective February 24, 2008. Mr. Vandolah received \$720.00 in benefits for the two-week period of February 24, 2008 through March 8, 2008.

On March 24, 2008, a Workforce Development representative entered a reference 01 decision that allowed benefits based on a voluntary quit for good cause attributable to the employer. The employer appealed the reference 01 decision. An administrative law judge modified the reference 01 decision by a decision entered on April 10, 2008 in Appeal Number 08A-UI-02947-S2T. The administrative law judge concluded that the claimant had been laid off for lack of work. The administrative law judge allowed benefits, provided the claimant was otherwise eligible. The administrative law judge remanded the matter for determination of the

claimant's ability to perform work. The employer did not appeal the administrative law judge's decision and, therefore, the administrative law judge's decision became a final Agency decision.

On April 30, 2008, a Workforce Development representative conducted a fact-finding interview to address the claimant's ability to perform work. The employer submitted documents for the fact-finding interview. The Workforce Development representative took a statement from the claimant. The Workforce Development representative told Mr. Vandolah that she would be requesting medical documentation from Mr. Vandolah's doctors regarding his ability to work. The Workforce Development representative mailed two Requests for Medical Report to the claimant and provided a May 14, 2008 deadline for the claimant's response. Mr. Vandolah promptly forwarded the Request for Medical Report to his doctors. The doctors were unfamiliar with the form and took no action in response to receiving the form.

On May 15 or 16, the Workforce Development representative contacted Mr. Vandolah and told Mr. Vandolah that she had entered, or would be entering, two Failure to Report as Directed decisions because she had not received a response from either of Mr. Vandolah's doctors. Mr. Vandolah agreed to contact his doctors. Mr. Vandolah promptly contacted both doctors' offices. Mr. Vandolah explained his need to have the doctor complete the report and forward the information to Workforce Development. On May 19, 2008, the Workforce Development representative entered the reference 02 and 03 decisions that denied benefits effective February 24, 2008 and that concluded Mr. Vandolah had failed to report as directed. On May 23, 2008, the Workforce Development representative received a completed Request for Medical Report from Orthopedic Surgeon Christopher Scott, M.D. On May 28, the Workforce Development representative received a completed Request for Medical Report from Neurosurgeon Chad Abernathy, M.D.

On June 3, the Workforce Development representative requested additional medical documentation concerning Mr. Vandolah's release to return to work. Mr. Vandolah promptly forwarded the request to his doctor, who provided the information to Workforce Development representative.

On June 6, the Workforce Development representative entered reference 05 and reference 06 concerning Mr. Vandolah's work ability and availability. Both parties have appeal rights in connection with those decisions. The appeal deadline has not yet run on those decisions.

REASONING AND CONCLUSIONS OF LAW:

Workforce Development rule 871 IAC 24.2(1)(e) provides as follows:

In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

The department retains the ultimate authority to choose the method of reporting and payment.

The weight of the evidence establishes that Mr. Vandolah acted in good faith to comply with the Workforce Development representative's request for medical documentation concerning his ability to work. The evidence indicates that any delay in the submission of the requested materials was attributable to Mr. Vandolah's doctors' lack of familiarity with the Request for Medical Report form and failure to take timely action in response to receiving the form. The evidence indicates that Mr. Vandolah promptly took additional action to assure that the requested information was submitted to Workforce Development as soon as he learned the Agency had not received a response from his doctors. There was no failure to report as directed. Mr. Vandolah is eligible for benefits, provided he is otherwise eligible.

This decision does nothing to disturb the reference 05, 06, and 07 decisions entered on June 6, 2008.

DECISION:

The Agency representative's May 19, 2008, reference 02, is reversed. The claimant did not fail to report as directed. The claimant is eligible for benefits, provided he is otherwise eligible. This decision does nothing to disturb the reference 05, 06, and 07 decisions entered on June 6, 2008.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw